

**MINUTES OF MEETING
MISSISSIPPI STATE BOARD OF HEALTH
JULY 14, 2004**

The Mississippi State Board of Health met in regular session on Wednesday, July 14, 2004, in the Alton B. Cobb Auditorium of the Osborne Building, Jackson, Mississippi at 10:00 a.m. with the following members present:

District I	Ruth Greer, RN, Holly Springs
District I	Ellen Williams, Senatobia
District II	Walter C. Gough, MD, Drew
District II	Debra L. Griffin, Belzoni
District III	R. A. Foxworth, DC, Jackson
District III	Randy H. Russell, MD, Jackson
District IV	Larry Calvert, R.Ph., Chairman, Gulfport
District V	Ted Cain, Diamondhead

STATE-AT-LARGE

H. Allen Gersh, MD, Hattiesburg

Members Absent:

District III	Mary Kim Smith, RN, Vice Chairman, Brandon
District IV	Norman Price, McComb
State-At-Large	Alfred E. McNair, Jr., MD, Ocean Springs

OTHERS PRESENT

Brian W. Amy, MD, MHA, MPH, State Health Officer
Danny Miller, CPA, Deputy Director and Chief of Staff
Jim Craig, Director, Office of Health Protection
Mills McNeill, State Epidemiologist
Vickey Maddox, Director, Office of Licensure
Jason Easley, Director, Office of Organizational Quality
Sam Dawkins, Director, Office of Health Policy and Planning
Pat Klar, Director, Office of Human Resources
Mitchell Adcock, Director, Office of Administration
Senator Alan Nunnelee, Tupelo
Representative Tommy Woods, Byhalia
Senator Merle Flowers, Southaven

The meeting was called to order by the Chairman, Mr. Calvert.

The Chairman then welcomed and introduced the following new members:

Ellen Williams, Senatobia
Debra L. Griffin, Belzoni
Randy H. Russell, MD, Jackson

The Chairman was also reappointed for a second term. All members were then administered the oath of office.

The Chairman then presented a plaque to Dr. Ray Foxworth in recognition of outstanding service and leadership as Chairman of the Board of Health for the last two years.

The Board then considered the minutes of the April 14, 2004 Board meeting. Upon motion of Dr. Gough, seconded by Dr. Foxworth, the Board approved the minutes of the April 14, 2004 Board meeting.

Mr. Mitchell Adcock, Director of Administration, presented the Financial Report for the period covering July 1, 2003 - May 31, 2004. Upon motion of Dr Foxworth, seconded by Dr. Gough, the Board voted to accept the Financial Report.

Ms. Pat Klar, Director, Office of Human Resources, presented the Personnel Report. She stated that the Agency's vacancy rate is 11 percent and that the vacancy rate for nurses as of July 1st was 13 percent. Upon motion of Dr. Gough, seconded by Ms. Greer, the Board voted to accept the Personnel Report.

Dr. Amy then presented the State Health Officer's update commenting on the following:

1. Introduced the following new employees:

Sam Dawkins - Director, Office of Health Policy and Planning
Robert Pipkin - Director, Office of Environmental Services
Marsha Williams - Director of Application Dev & Support, Office of Health Informatics
Keith Junkin, Director of Technical Infrastructure & Support, Office of Health Informatics
2. Commented on the Genetics Screening Program. Mississippi has taken the national lead in newborn screening for last year. Currently newborns are being screened and tested for 40 genetic disorders. Mississippi has successfully identified 70 cases of sickle cell disease, 21 cases of hyperthyroidism, seven cases of cystic fibrosis and 14 other major conditions.
3. The Department has joined with the University Medical Center (UMC) to establish a Center for National Disaster Life Support Training. Over 220 physicians participated in this training at the Mississippi State Medical Association annual meeting.
4. Mississippi Cancer Registry. Through a new partnership with the Cancer Institute at UMC, the Department will be providing more funding. We recently received a grant and funding for the Central Cancer Registry for almost \$1 million.
5. The Mississippi House of Representatives recognized the Department with a resolution for its efforts with Capital Day. Over 300 Mississippi legislators and officials were screened for health risks.
6. The Department is currently putting together emergency planning modules:

Phase 1 - Special needs population and evaluation plan for natural disasters.
Phase 2 - Bioterrorism evacuation plans which give up-to-the minute algorithms on the capacity where people can go and make sure that they stay out of harm's way.
7. The Department is currently conducting food forums across the state through December of this year. This is a new initiative of food safety where we are working on environmental threats as part of the bioterrorism grant.
8. Recently signed a new agreement with the University of Southern Mississippi which gives researchers of the University access to data collected by our agency for investigative and research purposes. The agreement provides an important research arm to our Agency and it will assist in developing and evaluating future healthcare programs for Mississippi.
9. Recognized the following employees:

Dr. Nick Mosca, State Dental Director. He received the Association of State and Territorial Dental Directors President's Award at their fifth national Oral Health Conference in Los Angeles.

Dr. Mary Gayle Armstrong, Medical Director. She was recently elected to the American Medical Association's Women Physicians Congress.

Dr. Peter Fos has been selected to become the Dean of the College of Health at the University of Southern Mississippi.

At this time, Dr. Amy also recognized Senator Alan Nunnelee, Chairman, Senate Public Health and Welfare Committee; Representative Tommy Woods and former Representative Valeria Robertson who were attending the meeting.

The Chairman then recognized Rep. Tommy Woods and Mayor Sam Rikard, Olive Branch to address the Board.

Mayor Rikard addressed the Board regarding the increased growth in population and the changes that have occurred in DeSoto County and Olive Branch. Due to these changes, he expressed a need for a hospital in eastern DeSoto County. He also commented that it seemed the State Health Plan or the Certificate of Need (CON) process does not recognize what are unique needs in a growing community like DeSoto County, specifically one that borders another state and a major metropolitan area. Representative Tommy Woods, also addressed the Board regarding the rapid growth and the need for a hospital in eastern DeSoto County.

Dr. Foxworth moved that the request for a hospital in eastern DeSoto County be presented to the CON committee to take a look at the criteria that is in place to see if modifications could be made. The motion was seconded by Dr. Gough and approved.

Mr. Danny Miller, Deputy Director and Chief of Staff then presented the 2004 Legislative update regarding the following legislation:

SB	2437	Delete requirement that MSDH report names of persons on birth certificates of illegitimate children to each District Attorney on a monthly basis. APPROVED BY GOVERNOR
SB	2742	To increase from \$15,130,000 to \$16,743,000 the amount of State general obligation bonds that may be issued for the Local Governments and Rural Water Systems Improvements Revolving Loan Fund. APPROVED BY GOVERNOR
HB	1735	Permits MSDH to transfer a portion of Trauma Care System funds to Medicaid for enhanced reimbursement fee program for Trauma Care and services. APPROVED BY GOVERNOR
HB	916	Technical correction to Mississippi's drug and alcohol testing statutes to clarify that drug and alcohol testing are voluntary. APPROVED BY GOVERNOR
HB	911	Increase certain fees for food service establishments; food processing establishments; on-site wastewater site evaluations; and boiler and pressure vessel certificates. Passed House; died in Senate Public Health Committee
HB	1010	Authorize the MSDH to assess a minimum penalty for operating a food service business without MSDH permit.
SB	2765	Died in House Public Health Committee.
HB	923	Amend Uniform Controlled Substance Law to prohibit manufacturing, sale, possession or use of a drug analogue.
SB	2412	Died.
HB	1793	Request funding (bond issue) to expand Public Health Laboratory.
SB	3178	\$600,000 for Phase I of design for a new public health laboratory.

Died in conference.

- SB 2607 Health care worker criminal background check requirements. Allows University Medical Center to do their own criminal background checks and allows professional healthcare staffing agencies to do criminal background checks. APPROVED BY GOVERNOR
- HB 1048 Allows renewal of the Mississippi Qualified Health Center Grant Program. APPROVED BY GOVERNOR
- HB 445 Provides for certification of medical first responders. SENT TO GOVERNOR
- HB 402 Requires child care facilities to develop and maintain current contact list for each child provided care by facility and allows for agreement between child care facility and child's parent to contact when child does not arrive in reasonable time. APPROVED BY GOVERNOR

He also offered additional comments regarding the appropriation bill. The Department did experience a general fund budget cut. State appropriation was approximately \$29 million out of a total appropriation of \$279 million. Over half of the budget is funded with federal funds through various federal grants. Other programs are funded from fees. The Agency will be able to continue to perform at the levels that are needed to provide services.

Mr. Sam Dawkins, Director, Office of Health Planning and Policy, then presented the following recommendations:

Board Subcommittee on J-1 Visa

Recommended the following actions for J-1 Visa physicians:

Newton Regional Hospital (J-1 Provider rescinded request)	Newton County	Dr. Yaser Alsaek Pediatrician Syria	Approval, April 2004
Dr. Julian Rose	Hinds County	Dr. Privilage Masoni Pulmonary Disease Zimbabwe	Approval
Community Health Clinic	Humphreys Co.	Dr. Hina Mahmud Internal Medicine Pakistan	Disapproval, Pending submission of additional information
Greenwood Leflore Hospital	Leflore County	Dr. Rana Skaf Obstetrics/Gynecology Lebanon	Approval
Woman's Clinic	Coahoma Co.	Dr. Kiandokht Partovi Internal Medicine OB/GYN Iran/Canada	Approval
Franklin Co. Memorial Hospital	Franklin County	Dr. Suresh Thota Internal Medicine	Approval
Delta Health Center	Facility Designation	Dr. Isam Naoom Internal Medicine	Approval

Dr. Foxworth moved the Board accept the recommendations of the Board Subcommittee on J-1 Visa. The motion was seconded by Dr. Gough and approved with Dr. Gersh recusing himself.

Mr. Dawkins then presented the following proposals for the State Health Plan:

1. "Final Adoption" of Proposed Update of FY 2005 State Health Plan for statistical update.

Dr. Foxworth moved the Board approve the statistical update to the FY 2005 State Health Plan for "final adoption". The motion was seconded by Dr. Gough and approved.

2. Proposed Amendment for "final adoption" that allows level II Rehabilitation Facilities to treat two additional diagnostic categories - major multiple trauma and neurological disorders. (Dr. Gersh exited the room at this time).

Upon motion of Dr. Gough, seconded by Ms. Greer, the Board approved the amendment that allows level II Rehabilitation Facilities to treat two additional diagnostic categories - major multiple trauma and neurological disorders. (Dr. Gersh reentered the room at this time).

3. Establishment of an End Stage Renal Disease (ESRD) facility for "final adoption".

Need Criterion: An applicant proposing the establishment of a limited care renal dialysis facility or the relocation of a portion of an existing ESRD facility's dialysis stations to another location shall demonstrate, subject to verification by the Mississippi State Department of Health, that each individual existing ESRD facility in the proposed ESRD Facility Service Area has (a) maintained a minimum annual utilization rate of eighty (80) percent, or (b) that the location of the proposed ESRD facility but whose ESRD relative risk score using current ESRD Network 8 data is 1.5 or higher. Eligible counties based on this (b) criterion presently include: Humphreys, Jefferson, Montgomery and Tallahatchie. Note: ESRD Policy Statements 2, 4, 5, and 6 do not apply to criterion 1 (b).

Dr. Foxworth moved to approve the above policy change for the Establishment of an End Stage Renal Disease facility for "final adoption". The motion was seconded by Dr. Gough and approved with Dr. Gersh voting in opposition to the motion.

Mr. Dawkins then presented a request for the Board's consideration to approve the Mississippi Qualified Health Center (MQHC) Grant award method. The MQHC Advisory Council is recommending that MQHC grants be distributed in Fiscal Year 2005 in accordance with the method proposed by the MS Primary Health Care Association. The proposed method would allocate available FY 2005 funds based on the FY 2004 percentages approved for each facility and redistribute any allocations due an ineligible MQHC equally among eligible health centers. Because Mantachie Rural Health Care, Inc. will not be applying for funding, its allocation of \$128,107 has been redistributed to the 21 remaining eligible MQHC's. Dr. Gough moved the Board approve the MQHC grant award method. The motion was seconded by Dr. Foxworth and approved.

Dr. Foxworth moved that the meeting be closed for a preliminary determination of necessity for executive session. The motion was seconded by Dr. Gough and approved.

Dr. Foxworth moved that the Board enter into Executive Session for discussion of the legals regarding the lawsuit styled Jackson Women's Health Organization, Inc., on behalf of itself and its patients seeking abortions v. Brian W. Amy, in his official capacity as State Health Officer for the Mississippi State Department of Health and his agents and successors; Malcolm O. Harrison, in his official capacity as Hinds County Attorney and his agents and successors; and Haley Barbour, in his official capacity as Governor for the State of Mississippi and his agents and successors. Civil Action No. 3:04CV495LN in the United States District Court of the Southern District of Mississippi. The motion was seconded by Dr. Gough and approved.

Upon motion of Dr. Russell, seconded by Dr. Gough the Board exited Executive Session.

The Chairman announced that no action was taken during Executive Session.

Ms. Vickey Maddox, Director, Office of Licensure, presented the following appointment to the Council of Advisors for Hearing Aid Specialists:

Kathryn Floyd - Hearing Aid Specialist
Term: July 1, 2004 - June 30, 2007

Upon motion of Dr. Gough, seconded by Dr. Foxworth, the Board approved the above appointment to the Council of Advisors for Hearing Aid Specialists.

Ms. Maddox then presented for "Final Adoption" the following proposed change to the Regulations Governing Licensure of Child Care Facilities and Regulations Governing Licensure of Child Care Facilities for 12 or Fewer Children in the Operator's Home. House Bill 402 was signed into law by the Governor during the 2004 Regular Legislative Session. The one sentence addition duplicates wording from the statute and has been incorporated into child care regulation.

Page 22, Section IX, Item T

An agreement may be made between the child care facility and the child's parent, guardian or contact person at the time of registration to inform the parent, guardian or contact person if the child does not arrive at the facility within a reasonable time.

Upon motion of Dr. Gersh, seconded by Ms. Griffin the Board voted to approve the above change to the Regulations Governing Licensure of Child Care Facilities and Regulations Governing Licensure of Child Care Facilities for 12 or Few Children in the Operator's Home for "final adoption".

Ms. Maddox then presented changes to the Minimum Standards of Operation for the Institution for the Aged and Infirm, Personal Care Homes - Assisted Living, Personal Care Home - Residential Living, Operation for Home Health Agencies, and Operation of Hospices for "final adoption". Senate Bill 2607 passed during the 2004 Legislative Session contains new definition and facility requirements as they relate to the criminal history record checks and it also mandates that facilities conduct a disciplinary check on each employee, with their employee's licensing professional agency. This proposal applies to all the minimum standards listed above.

Upon motion of Dr. Gough, seconded by Ms. Greer, the Board approved the above proposed changes to the Minimum Standards of Operation for the Institution for the Aged and Infirm, Personal Care Homes - Assisted Living, Personal Care Home - Residential Living, Operation for Home Health Agencies, and Operation of Hospices for "final adoption".

Ms. Maddox then presented the proposed changes to the Minimum Standards of Operation for Hospitals for "final adoption". This includes the criminal history record check changes in the other facility minimum standards. House Bill 1525 passed during the 2004 Legislative Session the Abortion Complication Reporting Act - requires physicians to report or to file reports with the Mississippi State Department of Health regarding patients who require medical treatment or suffer death as a result of abortion and addresses the confidentiality and penalties regarding such issues. Based on the interpretation of staff, this change was included in the minimum standards. Ms. Maddox did comment that the legislation only requires the Department to communicate this information to hospitals, licensed physicians, emergency rooms, ambulatory surgery centers and does not state that it must be put in regulation.

Ms. Mary Patterson, Vice President for Policy, Mississippi Hospital Association, stated that the placement of this language in the minimum standards is inappropriate due to the fact that the statute addresses only physicians. She further stated that facilities that fail to comply with the minimum standards can result in loss of license for a facility.

Dr. Gersh moved hospitals be required to report these instances and assist the physician and that it not be part of the minimum standards for hospitals. The motion was seconded by Ms. Griffin.

There was concern expressed by several Board members that this motion was out of order and that the proposed language is not before the Board.

At this time, Dr. Gersh and Ms. Griffin withdrew their motions regarding physicians reporting abortions.

Dr. Gough moved that the Board approve the proposed changes to the Minimum Standards for **Hospitals** for criminal history record checks. Dr. Foxworth seconded the motion. The Board voted to approve for "final adoption" the proposed changes for criminal history record checks to the **Minimum Standards for Hospitals**.

The Chairman then entertained a motion for physician reporting.

Ms. Griffin moved to delete this requirement from the minimum standards with regard to the hospitals, that we do not edit and include the word hospital, but leave the wording as it stands, as the physician is responsible for the reporting.

The motion died for lack of a second.

Dr. Foxworth then moved that Ms. Maddox and the Hospital Association meet and come to terms on how this could be handled and bring the recommendation back to the Board.

The motion was seconded by Dr. Gough and approved with Ms. Griffin voting in opposition to the motion.

Ms. Maddox presented the next item - **Minimum Standards for Operation of Ambulatory Surgery Centers** for "final adoption". This included the same recommendation as for the hospitals.

Dr. Gough moved to accept the recommendation. The motion died for lack of a second.

Dr. Foxworth moved that Ms. Maddox and the Ambulatory Surgery Centers meet and come to terms on how this could be handled and bring the recommendation back to the Board. The motion was seconded by Ms. Greer and approved.

The last item to be presented for the Office of Licensure was **Minimum Standards of Operations for Abortion Facilities** for "final adoption". House Bill 1038 amended Section 4175(1) of the law to provide abortion procedures after the first trimester shall be performed only in an ambulatory surgery center or a hospital licensed to perform that service. The regulations also contain the language regarding the physicians' responsibility to report any complications from an abortion, and it also contained a definition for medical treatment.

Dr. Foxworth moved that this item be tabled. Mr. Horton stated there has been a lawsuit filed in Federal Court challenging the legislation which changed the acceptable period of pregnancy for an abortion to be performed from 16 weeks to one trimester. That change has been challenged as being unconstitutional, and a Federal judge has issued a temporary injunction staying the effective date of the statutes, so the statute is not in effect.

The motion was seconded by Dr. Gough.

Dr. Russell commented that three items were being presented regarding the abortion facilities, and that only the second item deals with the statute being challenged in the lawsuit.

At this time Dr. Foxworth and Dr. Gough withdrew their motions.

Dr. Russell moved that the following changes to **Minimum Standards of Operation for Abortion Facilities** be approved for "final adoption":

- 102.13 Add definition of Medical Treatment.
- 106.2 Add requirement that a physician shall file a written report with the State Department of Health regarding each patient who requires medical treatment or suffers death that the attending physician has a reasonable

basis to believe is a primary, secondary, or tertiary result of an induced abortion.

The motion was seconded by Dr. Gough. The Board approved the above changes to the Minimum Standards of Operation for Abortion Facilities for "final adoption" with Ms. Griffin and Dr. Gersh voting in opposition to the motion.

Dr. Foxworth then made a motion to table section 102.26 of the Minimum Standards of Operation:

102.26 Change termination of pregnancy shall not be conducted beyond sixteen (16) weeks of pregnancy to shall not be conducted after the first trimester.

The motion was seconded by Dr. Russell and approved.

Mr. Jim Craig, Director, Office of Health Protection, presented for "final adoption" Amendments to Existing EMS Rules and Regulations. These amendments reflect compliance with House Bills 445 and 1626. The following is a summary of the requested amendments:

Section 5 - First Responder

Add New definitions;
Reflect Medical First Responder; and
Remove Epi-Pen and medical control of Medical First Responders

Glossary

Board, Certificate
Emergency Medical Condition, Emergency Mode, Emergency Response, Emergency Medical Call

First Responder, Medical First Responder

Section 1 - Ambulance Service Licensure

Requirements for Special Use Vehicle

Upon motion of Dr. Gough, seconded by Dr. Foxworth, the Board voted to approve the Amendments to Existing EMS Rules and Regulations for "final adoption".

Mr. Craig then presented for "final adoption" the following Amendments to the Regulation Governing Individual Onsite Wastewater:

Design Standard III Aggregate Replacement Systems

XV. General:

Amend this section to clarify the location of the effluent distribution pipe within the different configurations of EPS bundle systems.

XIX. Sizing

1. Remove the sizing chart on page 19 as it is incorporated into a new sizing chart.
2. Add this new sizing chart to reflect sizing for additional configurations of EPS systems.

Upon motion of Dr. Gough, seconded by Dr. Foxworth, the Board voted to adopt the Amendments to the Regulation Governing Individual Onsite Wastewater for "final

adoption" .

Mills McNeill, MD, State Epidemiologist, presented for "final adoption" **Addition to the List of Reportable Diseases and Conditions.**

This is being presented for compliance with Public law 107-260, the Benign Brain Tumor Cancer Registries Amendment. This added benign brain tumors as a Class IV reportable condition. The addition will become part of Section XVII, Specific Disease Control Measures.

Upon motion of Dr. Gough, seconded by Ms. Williams, the Board approved the above **Addition to the List of Reportable Diseases and Conditions** for "final adoption".

Mr. Jason Easley, Director, Office of Organizational Quality, presented the internal audit reports for the third quarter of FY 2004. These audits include Public Health District I and VI, the Office of Administration and Office of Health Promotion.

Upon motion of Dr. Gough, seconded by Dr. Russell, the Board voted to accept the Internal Audit Reports.

The next item was Old Business. There were no items discussed under Old Business.

Under New business, Dr. Gough offered comments regarding Methicillin Resistant Staph Aureus in hospitals. It was recommended that staff present a report on this at the next Board meeting with recommendations on how to assist hospitals with this problem.

Dr. Russell offered comments regarding public awareness in the event of a disaster. Dr. Amy commented the staff would present a report on this at the October meeting.

The Chairman then thanked Senator Nunnelee for his attendance, all the current members for their hard work and input and the new board members for accepting their appointments.

The meeting was adjourned at 1:00 pm.

Larry W. Calvert, R.Ph.
Chairman

Brian W. Amy, MD, MHA, MPH
Secretary and Executive Officer

